



General Assembly

February Session, 2004

Raised Bill No. 5116

LCO No. 670

00670_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

***AN ACT CONCERNING THIRD-PARTY LIABILITY FOR
CONTAMINATED PROPERTY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) No owner of real
2 property shall be liable for any costs or damages pursuant to any
3 provision of the general statutes or common law to any person other
4 than this state, any other state or the federal government, with respect
5 to any pollution or source of pollution on or emanating from such
6 owner's real property that occurred or existed prior to such owner
7 taking title to such property, provided:

8 (1) The owner did not establish or create a condition or facility at or
9 on such property that reasonably can be expected to create a source of
10 pollution to the waters of the state for purposes of section 22a-432 of
11 the general statutes and such owner is not responsible pursuant to any
12 other provision of the general statutes for creating any pollution or
13 source of pollution on such property;

14 (2) The owner is not affiliated with any person responsible for such
15 pollution or source of pollution through any direct or indirect familial

16 relationship, or any contractual, corporate or financial relationship
17 other than that by which such owner's interest in the property was
18 conveyed or financed; and

19 (3) The Commissioner of Environmental Protection has approved in
20 writing: (A) An investigation report regarding such pollution or
21 sources of pollution, provided the investigation was conducted in
22 accordance with the prevailing standards and guidelines by an
23 environmental professional licensed in accordance with section 22a-
24 133v of the general statutes, as amended; and (B) a final remedial
25 action report prepared by a licensed environmental professional that
26 demonstrates that remediation of such pollution and sources of
27 pollution was completed in accordance with the remediation standards
28 in regulations adopted pursuant to section 22a-133k of the general
29 statutes. Prior to the initiation of an investigation or a remediation
30 undertaken to meet the criteria of this section, an owner of the subject
31 real property shall notify, by certified mail, the owners of the adjoining
32 properties of such initiation. Such reports shall be forwarded, by
33 certified mail, to the owners of the adjoining properties.

34 (b) This section shall not relieve any such liability where (1) an
35 owner failed to file or comply with the provisions of an environmental
36 land use restriction created pursuant to section 22a-133o of the general
37 statutes for such real property or with the conditions of a variance for
38 the real property that was approved by the commissioner in
39 accordance with regulations adopted pursuant to section 22a-133k of
40 the general statutes, or (2) the commissioner, at any time, determines
41 that an owner provided information that the owner knew or had
42 reason to know was false or misleading or otherwise failed to satisfy
43 all of the requirements of subsection (a) of this section. Nothing in this
44 section shall be construed to relieve an owner of any liability for
45 pollution or sources of pollution on or emanating from such property
46 that occurred or were created after the owner took title to such
47 property. Nothing in this section shall be construed to hold an
48 innocent landowner, as defined in section 22a-452d of the general

49 statutes, who meets the requirements of this section liable to this state
50 for costs or damages in an amount greater than the amount that an
51 innocent landowner may be held liable pursuant to section 22a-432 of
52 the general statutes.

53 (c) If an owner of real property is found to be liable under this
54 section because the owner is affiliated with the person responsible for
55 the pollution or source of pollution, as provided in subdivision (2) of
56 subsection (a) of this section, such owner shall be liable for a civil
57 penalty of one hundred thousand dollars or the cost of remediating the
58 pollution or source of pollution, whichever is greater.

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| This act shall take effect as follows: | |
| Section 1 | <i>October 1, 2004</i> |

Statement of Purpose:

To protect a purchaser of land, under certain conditions, from liability to persons other than this state, any other state or the federal government for pollution on such land that existed or occurred prior to purchase.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]